REMARKS

Claims 21-40 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Tanaka in view of Astle. In particular, it is asserted that Astle discloses a system for processing audio and video data for a wireless handset comprising a controller generating priority data and that the number of channel buffers to receive data from and the amount of data to be received from each channel buffer is determined by the priority data. This rejection is respectfully traversed.

The combination of Tanaka in view of Astle fails to provide a prima facie basis for the rejection of the claims, because it fails to provide each element of the claimed invention, and also because there is no motivation to combine Tanaka and Astle. As a preliminary matter, Astle does not involve wireless handsets. It is clearly drawn to a system for use with an ISDN telecommunications lines, where multiple terminals 205 are connected to a resource allocation device. In contrast, a wireless handset is much smaller than any component of Astle, and one of ordinary skill in the art of wireless handset design would not only have no motivation to search as far afield as Astle for any guidance on the problem solved by the invention, but even if they did somehow find Astle, such as by using the pending application as a roadmap or otherwise through impermissible hindsight, they would find a system that requires a plurality of desktop computers, a landline, and a standalone resource allocation device that is used to concentrate data from the plurality of desktop computers into the landline.

Beyond this initial problem with the combination of Tanaka with Astle, there is also the fact that the combination fails to provide each element of the claimed invention. Claim 21 includes "a [i.e., one] controller generating priority data . . . and a transmission buffer system receiving the priority data and data from one or more of the channel buffers . .. where the number of channel buffers to receive data from and the amount of data to be received from each channel buffer is determined by the priority data." Claim 31 is drawn to a method for processing audio and video data for a [i.e., one] wireless handset. While it is true that Astle discloses a resource allocation device, the controller that allegedly generates the priority data is in each of terminals 205. This priority data is only used to resolve bandwidth allocation conflicts ***between terminals***. For example, see col. 3, line 66 to col. 4, line 14 of Astle, which states that "allocation control information indicates (i) an amount of bandwidth requested by a particular terminal for a given type of digital information (e.g., audio, control data, video, etc.) and (ii) the ***priority*** of the terminal being afforded the amount of

bandwidth. Based on this allocation control information and the total bandwidth available, the resource allocation device 215 determines how much bandwidth is allocated to each of the plurality of terminals 205a-205n." "Priority" is not used in regards to element (i), only in regards to element (ii). As such, priority as it relates to Astle only has meaning if there is a plurality of controllers. If only a single terminal is present, then Astle does not require any priority data, priority data is only a factor in Astle when there are multiple terminals and it is necessary to resolve conflicts between the terminals. The simple fact is that Astle is not only from a different art, where the size, weight and bandwidth are not specifically limited, but also has multiple external controllers, each associated with an individual terminal, instead of a single internal controller.

Likewise, in regards to claims 25 and 35, the controller of Astle (i.e., the terminals or desktop computers) do not generate priority data based on transmission channel bandwidth, but rather based on their own individual requirements and without regard to transmission channel bandwidth. Astle requires a resource allocation device to arbitrate priority between equal and autonomous terminals. The resource allocation device is not a controller, and does not generate priority data – it only resolves priority conflicts based on available bandwidth. Likewise, as previously noted, Astle does not teach a wireless handset.

In regards to claims 26 and 36, priority data is not generated based on the processor capacity of a wireless handset processor – Astle doesn't even disclose a wireless handset processor. Instead, Astle discloses desktop computers with an enormous amount of processor capacity when compared to a wireless handset processor, such that processor capacity would not even be a factor for the system of Astle. Astle further only discloses that priority can be selected by the user of a terminal, not that it is set based on the processor capacity of the terminal.

In regards to claim 27, Astle fails to disclose generating priority data based on transmission channel bandwidth or on processor capacity of a wireless handset processor. The priority data of Astle is selected by a user, and the resource allocation device only uses that priority data to resolve conflicts between processors. In addition, claims 27 and 37 include four buffers – an audio data buffer, a video data buffer, a control data buffer, and a transmission buffer. Neither Astle nor Tanaka, alone or in combination, disclose a four buffer system, either explicitly or inherently. Although inherency was not asserted by the Examiner and would constitute a new grounds of rejection, the Applicants will address that now in the interest of expediting prosecution. In order for a four buffer system to be inherent in Tanaka or Astle, it would have to necessarily be present. Astle

fails to disclose any buffers, and it is possible that the terminals of Astle modify the data generation rate instead of buffering data. Tanaka discloses three buffers, but fails to disclose a fourth transmission buffer that changes the amount and sequence of data from the three buffers. Tanaka can function by transmitting data directly from each buffer without the use of a transmission buffer, such that the use of a transmission buffer is not required by Tanaka. As such, the elements of claim 27 are not inherently present in Tanaka or Astle, and the combination fails to provide a prima facie basis for the rejection fo claim 276 under 35 U.S.C. 103.

In regards to claim 28, Astle fails to disclose that the priority data is generated from user control data. As each of the terminals of Astle is a personal computer and as the data channel of Astle is an ISDN line, it is not necessary for a user to provide control data for allocation of bandwidth between audio data, video data, control data, or other types of data. This is confirmed at col. 6, line 66 to col. 7, line 12 of Astle, which states that "the resource allocation device undergoes four operational steps to allocate bandwidth. First, the resource allocation device prioritizes the allocation requests according to their priority levels (e.g., a total of three priority levels) where requests made at a lower priority level are only satisfied when all the requests from the higher level have been granted. Next, if there is not enough available bandwidth to provide the requested bandwidth to each of the allocation requests at a particular level, the resource allocation device allocates a minimum amount of bandwidth to each information type and the remaining bandwidth is allocated based on priority, ***namely in the following order: audio, control data and video***. As a result, a degree of fairness in the allocation of bandwidth is ensured and a consistent quality of communication remains." The overriding priority of audio data > control data > video data is required because each of terminals 205 can assign themselves highest priority. In contrast, the present invention allows a user of a wireless handset to assign the highest priority to video data, at the expense of audio data and control data, if desired. As such, if a user of the present invention determines that transmission of video is a priority, they can set the priority of the video data to be higher than that of audio and control data, such that no audio or control data is transmitted. The overriding priority assign to audio data by Astle would prohibit such function.

Claim 29 includes that the control data is used to change both the amount and sequence of data from the audio data buffer, the video data buffer, and the control data buffer that is stored in the transmission buffer. As previously discussed, neither Astle nor Tanaka, alone or in combination, disclose such a four buffer system, either explicitly or inherently.

Claims 30 and 40 have been cancelled without prejudice or disclaimer, and new claims 41 and 42 are herewith added for examination. These claims specifically include that audio data can have a lower priority than video data or control data, which is explicitly contrary to the teachings of Astle, which requires an overriding priority in order to resolve conflicts between the priority assigned by each of the terminals.

As discussed, all pending claims are believed to be allowable over the prior art. Withdrawal of the rejections and allowance of all claims is respectfully requested.

CONCLUSION

In view of the foregoing remarks and for various other reasons readily apparent, Applicants submit that all of the claims now present are allowable, and a Notice of Allowance is courteously solicited.

If any impediment to the allowance of the claims remains after consideration of this amendment, a telephone interview with the Examiner is hereby requested by the undersigned at (214) 939-8657 so that such issues may be resolved as expeditiously as possible.

No additional fee is believed to be due. If any applicable fee or refund has been overlooked, the Commissioner is hereby authorized to charge any fee or credit any refund to the deposit account of Godwin Gruber, LLP, No. 50-0530.

Respectfully submitted,

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